



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Application of California-American Water Company (U 210 W) to Decrease Revenues for Water Service in its Coronado District by (\$73,100) or (0.46%) in 2008 and Increase Revenues by \$266,200 or 1.67% in 2009 and \$260,900 or 1.61% in 2010	A.07-01-036
Application of California-American Water Company (U 210 W) to Increase Revenues for Water Service in its Larkfield District by \$1,272,000 or 61.91% in 2008, \$134,300 or 3.94% in 2009 and \$129,900 or 3.67% in 2010 Under the Current Rate Design or Decrease Revenues by (\$742,200) or (36.12%) in 2008 and Increase Revenues by \$50,000 or 3.72% in 2009 and \$63,500 or 4.55% in 2010 Under the Proposed Rate Design	A.07-01-037
Application of California-American Water Company (U 210 W) to Increase Revenues for Water Service in its Sacramento District by \$8,966,900 or 33.89% in 2008, \$1,905,700 or 5.36% in 2009, and \$1,860,700 or 4.97% in 2010 Under the Current Rate Design or by \$10,981,000 or 41.50% in 2008, \$1,925,900 or 5.11% in 2009, and \$1,845,600 or 4.66% in 2010 Under the Proposed Rate Design	A.07-01-038
Application of California-American Water Company (U 210 W) to Increase Revenues for Water Service in its Village District by \$1,537,300 or 7.43% in 2008, \$243,400 or 1.08% in 2009, and \$232,900 or 1.02% in 2010	A.07-01-039

**CALIFORNIA-AMERICAN WATER COMPANY'S
OPPOSITION TO THE MARK WEST AREA COMMUNITY SERVICES
COMMITTEE'S MOTION TO STRIKE THE TESTIMONY OF THOMAS GLOVER**

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July 27, 2007

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CALIFORNIA-AMERICAN WATER COMPANY'S OPPOSITION TO THE MARK WEST AREA COMMUNITY SERVICES COMMITTEE'S MOTION TO STRIKE THE TESTIMONY OF THOMAS GLOVER

I. INTRODUCTION

In accordance with Rule 11.1 of the Commission's Rules of Practice and Procedure ("Rules"), California-American Water Company ("California American Water") hereby files this Opposition to Mark West Area Community Services Committee's (MWACSC) Motion to Strike the Testimony of Thomas Glover (filed July 17, 2007) ("Motion"). MWACSC is asking the Commission to strike all of the testimony sponsored by Thomas Glover, P.E. in this proceeding even though the testimony, designated as Exhibits 14, 17 and 45, has already been received in evidence by Assigned Administrative Law Judge ("ALJ") Rochester on June 6, 2007,

on the record, in the open hearing room, and without objection.¹ MWACSC's Motion is procedurally improper and betrays its lack of understanding about the Commission's procedural rules and practice. Even if MWACSC had raised its objections in a timely manner, there is simply no basis to exclude the important testimony sponsored by Thomas Glover, P.E., California American Water's General Manager for the Northern Division, from evidence and from this Commission's consideration. California American Water submits that MWACSC's Motion should be denied.

II. ARGUMENT

California American Water opposes the Motion on the grounds that (A) Mr. Glover's Testimony was properly received in evidence and MWACSC's objection to admission of the exhibits was waived; (B) the Motion seeks an unfair limitation of California American Water's right to offer testimony adverse to MWACSC's position; and (C) the facts as stated in the Direct, Rebuttal and Supplemental Testimony of Thomas Glover, P.E. are true and were confirmed by Mr. Glover's oral testimony at the evidentiary hearing. California American Water takes this opportunity to show that there is no evidence supporting MWACSC's accusation that Mr. Glover's Testimony is misleading, much less that it amounts to an ethical violation or any infraction of Rule 1.1 of the Commission's Rules of Practice and Procedure.

¹ RT 527:8-12 (ALJ Rochester).

A. California American Water Introduced Exhibits 14, 17 and 45 in Accordance with Normal Commission Practice and MWACSC Waived Any Objection It May Have Had to the Commission's Receipt of Mr. Glover's Testimony Into the Record.

California American Water introduced Exhibits 14, 17 and 45 in accordance with normal Commission practice. MWACSC waived any objection it may have had to the reception of these exhibits when it chose not to raise its objections either on the day the exhibits were offered or on the day the exhibits were received into the record. MWACSC was put on notice of Mr. Glover's position nearly three months ago when its representatives were provided a copy of Mr. Glover's Direct Testimony on April 20, 2007. The Assigned ALJ asked MWACSC and the other parties if there were any objections and no objections were made. Accordingly, the Assigned ALJ ruled that Exhibits 14, 17 and 45, Mr. Glover's Direct, Rebuttal and Supplemental Testimony were received into evidence on June 6, 2007.²

Absent exceptional circumstances not present here, a party's failure to state its objections to the receipt of testimony into the record waives any objection. This is particularly true here when (1) MWACSC's representatives had the opportunity to confront and extensively cross-examine this witness regarding his Testimony; (2) MWACSC waited over 40 days to object to the reception of Mr. Glover's Testimony; and (3) MWACSC's representatives made no objection to the reception of this Testimony into the record. MWACSC's failure to object at the time of the evidentiary hearing waived any objection it may have had.

² RT 527:8-12 (ALJ Rochester).

B. The Motion Seeks an Unfair Limitation of California American Water's Right to Offer Testimony Adverse to MWACSC's Position.

The Commission's receipt of Mr. Glover's Testimony into the record was not only proper under the Commission's Rules of Practice and Procedure, but was California American Water's right as a matter of law. The Motion seeks an unfair limitation of California American Water's constitutional rights to present and cross-examine witnesses and present rebutting evidence. These rights are fundamental components of California American Water's right to due process of law.

Additionally, MWACSC seeks a ruling withdrawing from the Commission's consideration important evidence presented by California American Water bearing on the testimony of Mr. Glover and upon many important issues pending before the Commission in this General Rate Case. This testimony is relevant and material to California American Water's request in this case and the issue of whether the existing water supply deficit in the Larkfield District can be adequately addressed through the Faught Road Well. It also aids the Commission in evaluating and according the appropriate weight to the claims made by MWACSC that the design and construction of the North Wikiup Tank No. 2 are flawed.

C. The Facts as Stated in the Direct, Rebuttal and Supplemental Testimony of Thomas Glover, P.E., are True and Were Further Supported by Mr. Glover's Oral Testimony at the Evidentiary Hearing.

In a desperate attempt to discredit Mr. Glover's Direct, Rebuttal and Supplemental Testimony, MWACSC deliberately misrepresents the testimony of Mr. Glover at the evidentiary hearing. MWACSC alleges that Mr. Glover has acknowledged that numerous statements in his testimony were false and that certain of his statements have been proven to be

false.³ This is untrue. There is no evidence to support MWACSC's erroneous interpretation of the record in this proceeding, particularly given that MWACSC refers to information that is not even part of the record to support its claims.

Furthermore, MWACSC's allegation that Mr. Glover's testimony violates Rule 1.1 calls into question the respect due to the Commission, the members of the Commission and ALJ Rochester. At all points throughout the proceeding, great care was taken by California American Water to provide careful and thorough analysis and substantial justification for all of its rate case requests.

California American Water responds to each of MWACSC's allegations below:

1. Characterization of the supply of water taken from the Sonoma County Water Agency in excess of 800,000 gallons per day.

On page 3 of its Motion, MWACSC contends that Mr. Glover's Rebuttal Testimony falsely characterizes the supply of water from the Sonoma County Water Agency to be "interruptible."⁴ As MWACSC is fully aware, California American Water has been able to take additional water from Sonoma County Water Agency when it has exceeded the 800,000 gallons per day averaged over the month; however, in the future, California American Water will not be able to take that water.⁵

Contrary to MWACSC's claim, nowhere did Mr. Glover suggest that the authorized 800,000 gallons per day that California American Water has taken in the past is

³ Motion, p. 7.

⁴ Motion, p. 3.

⁵ RT 446:16-19 (Glover/CAW).

interruptible. Mr. Glover's Rebuttal Testimony states only that the construction of the Faught Road Well is necessary "to minimize the use of the interruptible Sonoma County Water Agency Aqueduct interconnection as much as possible."⁶ This statement is entirely consistent with Mr. Glover's testimony that any portion over the 800,000 gallons per day is interruptible because "currently, it is at Sonoma County Water Agency's discretion whether they deliver that water or not."⁷

MWACSC claims that "twenty pages of transcript" were necessary to elicit a response from Mr. Glover as to whether the 800,000 gallons per day taken from the Sonoma County Water Agency are interruptible. MWACSC has grossly distorted the facts. Mr. Glover patiently and repeatedly explained to MWACSC's representatives that California American Water is "authorized to take, over a month, an average of 800,000 gallons per day."⁸ MWACSC's gross distortion of the record should be given no weight.

2. MWACSC's review of the supporting documents for the North Wikiup Tank No. 2.

On page 3 of its Motion, MWACSC contends that Mr. Glover sponsored false testimony regarding MWACSC's review of the supporting documents for the North Wikiup Tank No. 2. This is untrue. Although MWACSC sent a letter to California American Water asking for a copy of the geotechnical report for North Wikiup Tank No. 2, Mr. Glover's conclusion remains accurate that "it is obvious that MWACSC made its statements [regarding

⁶ Exh. 17, Rebuttal Testimony of Thomas Glover, P.E., p. 6:14-15 (emphasis added to original).

⁷ RT 447:25-28 (Glover/CAW).

⁸ RT 449:8-11 (Glover/CAW). *See also* RT 448:17-20 (ALJ Rochester) (directing MWACSC's representative to move on to another question because Mr. Glover had already answered the question about whether the 800,000 gallons per day is interruptible).

the North Wikiup Tank No. 2] without reviewing the supporting documents for this project.”⁹

More than ten days after it submitted its testimony on the North Wikiup Tank No. 2, MWACSC issued a data request, on May 15, 2007, with over forty questions related to the North Wikiup Tank No. 2. The fact that MWACSC sought additional documents, including the tank failure analysis report prepared by RBF, suggests that MWACSC reached its conclusions regarding the design and construction of the North Wikiup Tank No. 2 without reviewing the supporting documents for this project.

3. Transmission problems downstream of Larkfield in the Sonoma County Water Agency aqueduct system.

On pages 4 and 5, MWACSC contends that Mr. Glover introduced testimony regarding the transmission problems downstream of Larkfield in the Sonoma County Water Agency aqueduct system for the sole purpose of misleading the Commission “into believing that the downstream transmission problem had an effect upon Larkfield’s water supply.”¹⁰ Contrary to MWACSC’s accusation, Mr. Glover correctly testified that a bottleneck or other problem in Sonoma County Water Agency’s distribution system could create problems for California American Water’s system and ability to access the 800,000 gallons per day from the Sonoma County Water Agency.¹¹ Contrary to MWACSC’s contentions that Mr. Glover’s testimony on the transmission problems is misleading, Mr. Glover correctly testified that “[i]f Sonoma County has transmission problems in getting water to us, then it becomes our problem.”¹²

⁹ Exh. 17, Rebuttal Testimony of Thomas Glover, P.E., p. 31:12-14.

¹⁰ Motion, p. 5.

¹¹ RT 466:1-7 (Glover/CAW).

¹² RT 508:11-13 (Glover/CAW).

4. Growth projections used for calculating the water supply needs for the Larkfield District.

On pages 5 and 6 of its Motion, MWACSC claims that California American Water has used “inflated growth figures” in its water supply analyses and should have used a reduced customer base. Importantly, MWACSC’s contentions are based upon information that is not reliable because it is not part of the record and has not been subjected to cross-examination in this proceeding. Moreover, the fact that MWACSC disagrees with the contents of Mr. Glover’s testimony does not necessarily mean that the opinions and conclusions rendered in that testimony are false or misleading. In any event, even with gross distortions of the record, MWACSC cannot change the fact that there is an existing water supply deficit in the Larkfield District based upon 2005 data.

5. California American Water took conservation into consideration when it prepared its water supply analysis.

On page 6 of its Motion, MWACSC contends that Mr. Glover’s testimony that California American Water tried to account for the effects of conservation in its water supply planning is unsupported. Again, the fact that MWACSC disagrees with the contents of Mr. Glover’s testimony does not necessarily mean that the opinions and conclusions rendered in that testimony are false or misleading. MWACSC appears to believe that simply saying that Mr. Glover is wrong makes it so. MWACSC fails to explain or demonstrate why Mr. Glover’s testimony does not accurately reflect the process utilized by California American Water when it prepared its water supply analyses.

III. CONCLUSION

For the reasons stated in this Opposition, MWACSC's Motion to Strike Mr. Glover's testimony should be denied.

Dated: July 27, 2007

Respectfully submitted,

By: s/ Sarah E. Leeper

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PROOF OF SERVICE

I, Michelle Chavez, declare as follows:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to this action. My business address is STEEFEL, LEVITT & WEISS, One Embarcadero Center, 30th Floor, San Francisco, California 94111-3719. On July 27, 2007, I served the within:

***California-American Water Company's
Opposition to the Mark West Area Community Services Committee's Motion to Strike the
Testimony of Thomas Glover***

on the interested parties in this action addressed as follows:

See attached service list



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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 27, 2007, at San Francisco, California.

/s/ Michelle Chavez

Michelle Chavez

SERVICE LIST
A. 07-01-036, A. 07-01-037, A. 07-01-038, A. 07-01-039
Updated 05/09/07

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